

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q94121

Masao SUDOH, et al.

Appln. No.: 10/574,477

Group Art Unit: 1621

Confirmation No.: 2361

Examiner: Sudhakar KATAKAM

Filed: January 9, 2007

For: DRUG CONTAINING (2R)-2-PROPYLOCTANOIC ACID AS THE ACTIVE
INGREDIENT

STATEMENT OF SUBSTANCE OF INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please review and enter the following remarks summarizing the interview conducted on

June 22, 2010:

REMARKS

An Examiner's Interview Summary Record (PTO-413) was attached with the Office

Action dated June 29, 2010.

During the interview, the following was discussed:

1. **Brief description of exhibits or demonstration:** None.
2. **Identification of claims discussed:** Independent claims.
3. **Identification of art discussed:** Art of record and new reference JP 7285911.
4. **Identification of principal proposed amendments:** None.
5. **Brief Identification of principal arguments:** Applicants' representative

pointed out that the primary reference teaches a totally unrelated active ingredient, does not teach

or suggest the mixing (2R)-2-propyloctanoic acid with sodium phosphate or any other agent and there is no reason to combine the references as suggested by the Examiner. Applicants' representative also pointed out that there is no teaching or suggestion of the range of about 1 to about 5 equivalents of the basic ion based on 1 equivalent of (2R)-2-propyloctanoic acid or a salt thereof in any of the cited references and no motivation to modify or combine Black which teaches more than 12,000 times the amount of the basic ion based on 1 equivalent of the active ingredient.

The Examiner acknowledged these points but stated that he felt that propyloctanoic acid salts are known and various sources of metal salts are known and it would have been obvious to optimize the amount of sodium salt. The Examiner further stated that he thought a showing of unexpected results or criticality of the specific salt claimed would be helpful.

The Examiner further mentioned that he thought that a new rejection might be warranted based on the International Search Report and references cited therein cited in the Information Disclosure Statement filed June 11, 2010. Additionally, the Examiner stated that he found new art, JP 7285911, which he intends to apply in the next Office Action.

Applicants representative questioned whether the Examiner considered the amendment to claim 1 to recite that the preparation is a micelle water liquid dispersion of components (a) and (b) in terms of the previous rejections and in terms of the art mentioned for the first time during the Interview and he indicated that he would take the amended claim into consideration.

6. Indication of other pertinent matters discussed: None.

7. Results of Interview: No agreement was reached.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

It is believed that no petition or fee is required. However, if the USPTO deems otherwise, Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 19-4880.

Respectfully submitted,

/Susan J. Mack/

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Date: November 29, 2010